

REMARKS

Claims 1-24 are currently pending. Claim 25 has been cancelled and incorporated into claim 1. Claim 1 is further amended and support can be found, for example, in Figures 1A and 1C and paragraph [0047]. Claim 7 is amended to correct a typographical error.

Claim Rejections - 35 U.S.C. 102

Claims 1, 9, 10 and 25 stand rejected under 35 U.S.C. 102(b) as being allegedly anticipated by Kricka (5,744,366). Claim 1, as amended, recites the steps of, "providing a support member having a smooth upper surface; removably sealing a top member to the smooth upper surface of the support member with substantially fluid tight, conformal contact to create a discrete assay chamber...". Kricka does not disclose these limitations.

Kricka discloses a solid substrate 14 having a flow channel 20 formed in the top surface of the substrate 14, as shown in Figure 1. Thus, Kricka does not disclose a support member having a smooth upper surface as recited in claim 1. Furthermore, Kricka's cover 12 is clamped or otherwise bonded to a substrate (14) (col 13, lines 45-47), thus Kricka's cover is not configured to be removably sealed, but rather is permanently sealed. Additionally, Kricka does not disclose any kind of conformal contact between the substrate and the cover. As described in the instant specification, conformal contact means "substantially form-fitting contact" (see page 11). The cover of Kricka is simply placed on top of the substrate and permanently bonded and does not "conform". For at least these reasons, Applicants submit that Kricka does not anticipate claim 1 (and all claims that depend therefrom) and Applicants respectfully request withdrawal of this rejection.

Claims 1, 2, 9-11, 17, 18, 22 and 24 stand rejected under 35 U.S.C. 102(e) as being allegedly anticipated by Jarnigan (6,238,874). Jarnigan does not teach "conformal contact" between the top member and the support member as recited in amended independent claim 1. Specifically, claim 1 recites that the top member of the device is mounted to the support member by being placed in "substantially fluid-tight conformal contact" with the support member. As described in the specification, conformal contact means "substantially form-fitting contact" (see

page 11). Jarnigan describes a capillary constructed of two parts: 1) a base member having a narrow ridge (12) along the uppermost surface of the base member and 2) a cover plate. Rather than the cover plate being in conformal contact with the base member, the cover plate is sealed to the top surface of the ridge (see col. 5, lines 28-30). Therefore, the cover plate does not have form-fitting contact with the base member and only contacts the top surface of the ridge of the base member. For at least this reason, Applicants submit that Jarnigan does not anticipate claim 1 (and all claims that depend therefrom) and respectfully request withdrawal of this rejection.

Claim Rejections - 35 U.S.C. 103

Claims 3-5 stand rejected under 35 U.S.C. 103(a) as being allegedly rendered obvious by Kricka (5744366) or Jarnigan (6,238,874) in view of Goodwin Jr. (5284753). Neither Kricka or Jarnigan, alone or in combination, teach all of the limitations of claim 1, as discussed above. Furthermore, Goodwin Jr. does not cure these deficiencies. Goodwin Jr. describes chemotaxis test sites with top and bottom regions separated by a membrane filter, and thus does not describe a support member with a removably sealable top member as claimed. For at least these reasons, Applicants submit that claims 3-5 are not rendered obvious by the combination of Kricka or Jarnigan, and Goodwin, Jr. and Applicants request withdrawal of this rejection.

Claims 3-5, 12, 13 and 19-23 stand rejected under 35 U.S.C. 103(a) as being allegedly rendered obvious by Jarnigan in view of Kennedy "Motility and chemotaxis..." and/or Shonnard "Hydrodynamic effects...". Jarnigan does not teach all of the limitations of claim 1, as discussed above. Kennedy and/or Shonnard do not cure these deficiencies, since they do not describe a support member with a removably sealable top member as claimed. Shonnard describes chemotaxis experiments using a known Palleroni chamber and Kennedy uses small test tubes for his experiments. For at least these reasons, Applicants submit that claims 3-5, 12, 13 and 19-23 are not rendered obvious by the combination of Jarnigan and Kennedy and/or Shonnard and Applicants request withdrawal of this rejection.

Claims 3 and 6-8 stand rejected under 35 U.S.C. 103(a) as being allegedly rendered obvious by Kricka or Jarnigan, and in further view of Jeon (6,705,357). As discussed above,

Kricka or Jarnigan, alone or in combination, do not disclose all of the limitations of claim 1 and Jeon cannot cure this deficiency. Jeon does not describe a support member with a removably sealable top member, where the channel region is exposed to the environment as claimed. The channel (240) in Jeon (Fig. 6) is covered by the top member and thus is not exposed to the environment. For at least these reasons, Applicants submit that claims 3 and 6-8 are not rendered obvious by the combination of Kricka or Jarnigan and Jeon, and Applicants request withdrawal of this rejection.

Claims 14-16 stand rejected under 35 U.S.C. 103(a) as being allegedly rendered obvious by Jarnigan in view of Kricka. As discussed above, Kricka or Jarnigan, alone or in combination, do not disclose all of the limitations of claim 1. For at least these reasons, Applicants submit that claims 14-16, which depend from claim 1 either directly or indirectly, are not rendered obvious by the combination of Jarnigan and Kricka, and Applicants request withdrawal of this rejection.

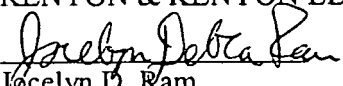
CONCLUSION

It is respectfully submitted that the present application is now in condition for allowance, which action is respectfully requested. The Examiner is invited to contact Applicants' representative to discuss any issue that would expedite allowance of the subject application.

Any fees for extension(s) of time or additional fees required in connection with the filing of this response, are hereby petitioned under 37 C.F.R. § 1.136(a), and the Commissioner is authorized to charge any such required fees or to credit any overpayment to Kenyon & Kenyon's Deposit Account No. 11-0600.

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Respectfully submitted,
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